

Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 EPG-02 FAA-00
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C O N F I D E N T I A L JAKARTA 09644

E.O. 11652: GDS
TAGS: EAIR, ID
SUBJECT: CIVAIR- US-INDONESIAN AIR TRANSPORT AGREEMENT

REFS: (A) STATE 155848, (B) STATE 156316

1. GUIDANCE PROVIDED REFTELS GREATLY APPRECIATED. IFM MEDIA ACCOUNTS AVAILABLE LOCALLY OF RESULTS OF US-UK NEGOTIATIONS ARE ANY INDICATION, GOI OFFICIALS MAY BE MISINFORMED AS TO REAL TERMS OF BERMUDA II AGREEMENT. HOWEVER, IN VIEW OF DELICACY OF US-INDONESIAN AVIATION RELATIONSHIP AT THE MOMENT, WE BELIEVE IT MAY NOT BE IN OUR INTERESTS TO SEEK APPOINTMENT WITH GOI OFFICIALS TO BRIEF THEM ON BERMUDA II BUT WILL INSTEAD USE ANY OPPORTUNITIES WHICH PRESENT THEMSELVES TO ENSURE CIVAIR OFFICIALS ARE ACCURATELY INFORMED ON TERMS OF LANDMARK AGREEMENT. FROM REF B WE NOW ALSO HAVE A CONSIDERABLY BETTER UNDERSTANDING OF RATIONALE FOR DISCOURAGING GOI FROM DENOUNCING BILATERAL AGREEMENT.

2. IF IT IS POSSIBLE FOR DEPARTMENT TO PROVIDE IT, WE WOULD APPRECIATE FURTHER GUIDANCE ON OTHER MATTERS RELATED TO CURRENT STATUS OF US/RI VICAIR RELATIONS. ANY GUIDANCE PROVIDED WOULD BE USED STRICTLY ON AN CONFIDENTIAL

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IF-ASKED BASIS. LAST ROUND OF NEGOTIATIONS ENDED IN A STAND-OFF WITH GOI REFUSING TO CONFIRM CERTAIN US ROUTE RIGHTS AND US CONTINUING TO WITHHOLD ACTION ON GARUDA APPLICATION FOR AROUTE NOT COVERED BY BILATERAL AGREEMENT. THIS SITUATION GIVES RISE TO AT LEAST THREE QUESTIONS WHICH WE BELIEVE GOI MAY PUT TO US REGARDING CURRENT STATUS OF OUR AVIATION RELATIONSHIP:

A) WHAT IS PRESENT STATUS OF GARUDA APPLICATION?

AS WE UNDERSTAND SITUATION, APPLICATION IS STILL AWAITING DISPOSITION. FOR OBVIOUS REASONS, WE WOULD PREFER THAT NO ACTION BE TAKEN ON APPLICATION IN PRESENT CIRCUMSTANCES.

B) WHAT IS THE STATUS OF US SEPTEMBER 1976 OFFER?

IF INDONESIANS RAISE QUESTION WITH US, SHOULD BE ADVISE THEM OFFER NO LONGER VALID?

C) WHAT WOULD HAPPEN IF GARUDA WERE TO APPLY FOR A

ROUTE TO THE US THAT IS COVERED BY EXISTING US/RI

AGREEMENT, E.G., A ROUTE FROM INDONESIA TO HONOLULU AND SAN FRANCISCO?

3. WE APPRECIATE THAT LATTER QUESTION IS DIFFICULT

ONE BUT IT IS ONE WHICH WE FEEL MAY ARISE BECAUSE GARUDA STILL HOPES TO ACQUIRE ADDITIONAL DC-10 WHICH IT MUST UTILIZE ON LONG-HAUL ROUTING. AT ONE TIME IN GARUDA APPLICATION PROCEEDING, THE DEPARTMENT RECOMMENDED TO THE CAB THAT THE AIRLINE'S APPLICATION BE DECIDED ON THE BASIS OF COMITY AND RECIPROCITY AND WITHOUT REGARD TO THE EXISTENCE OF THE AGREEMENT. IF THAT IS STILL THE POSITION, PRESUMABLY GARUDA WOULD NOT BE GIVEN A PERMIT EVEN IF THE APPLICATION WERE FOR A ROUTING WHICH CONFORMED WITH THE AGREEMENT. WE WOULD FIND IT AWKWARD
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TO HAVE TO URGE THE GOI NOT TO DENOUNCE THE AGREEMENT BUT AT THE SAME TIME HAVE TO TELL THEM THAT WE DO NOT CONSIDER OURSELVES BOUND BY ITS PROVISIONS. WE WOULD HOPE TO AVOID SUCH A SITUATION IF AT ALL POSSIBLE.

4. WE NOTE FROM REF B THAT PRIMARY REASON FOR WANTING

TO AVOID GOI DENUNCIATION OF AGREEMENT IS THAT IT MIGHT ENCOURAGE OTHERS TO DENOUNCE AGREEMENTS. IT SEEMS TO US THAT ONE OF THE REASONS DENUNCIATION ATTRACTS AS MUCH ATTENTION AS IT DOES IS BECAUSE DENUNCIATION IS A UNILATERAL ACT AND COMMONLY REGARDED AS A PUBLIC EXPRESSION OF DISSATISFACTION WITH AN EXISTING AGREEMENT. IF THIS IS THE CASE AND IF INDONESIANS ARE ADAMANT ABOUT TERMINATING THE AGREEMENT, WE WERE WONDERING WHETHER A WAY TO LESSEN POSSIBLE THIRD COUNTRY CONSEQUENCES AND AT THE SAME TIME SATISFY THE INDONESIANS MIGHT BE TO SUGGEST TO THEM THAT WE MUTUALLY AGREE TO SUSPEND INDEFINITELY THE BILATERAL AGREEMENT UNTIL SUCH TIME AS ONE OR THE OTHER WISHES TO REACTIVATE IT; IT COULD BE AGREED FURTHER THAT BEFORE THE AGREEMENT IS REACTIVATED THE PARTIES WOULD CONSULT TO CONSIDER NEW TERMS. IF THIS RATHER UNUSUAL ARRANGEMENT CAME TO

ATTENTION OF OTHERS (ARRANGEMENT WOULD NOT BE CONFIDENTIAL BUT NEITHER WOULD IT BE GIVEN PUBLICITY) WE COULD SAY NEITHER PARTY HAD IMMEDIATE INTEREST IN IMPLEMENTING AGREEMENT YET WANTED TO RETAIN EVIDENCE OF BASIC AVIATION LINK SO IT WAS MUTUALLY AGREED TO SUSPEND AGREEMENT'S PROVISIONS.

5. WE DO NOT KNOW WHETHER INDONESIANS WOULD AGREE TO SUCH AN ARRANGEMENT BUT WE WOULD APPRECIATE IT IF DEPARTMENT WOULD GIVE IT CONSIDERATION. FROM OJR POINT OF VIEW, IT WOULD OFFER SEVERAL ADVANTAGES: (A) IT WOULD AVOID UNILATERAL DENUNCIATION; (B) IT WOULD RETAIN ORIGINAL AGREEMENT AS BASIS FOR FUTURE NEGOTIATIONS AND AS EVIDENCE OF BASIC AVIATION LINK; AND (C) IT WOULD PREVENT GARUDA FROM APPLYING FOR A ROUTE CONTAINED IN CONFIDENTIAL

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PRESENT AGREEMENT AND AVOID AWKWARD SITUATION DESCRIBED PARA 3.
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